

17. (Amended) The nozzle of claim 14 wherein a cap is attached to the beveled cylinder on the end opposite the end attached to the [closed] open end of the inner stem.

Remarks

Claims 1-22 are pending in this application. In the July 22, 1999 Office Action (Paper No. 3), the disclosure has been objected to for various informalities. The disclosure has been amended herein. Claims 1-3, 6-8, 10-15, 17, 19 and 22 have been rejected under 35 U.S.C. 102(b) over U.S. Pat. No. 3,001,725 to Lockett and U.S. Pat. No. 2,989,250 to Simon. Claims 3-5 and 19-20 have been rejected under 35 U.S.C. 103(a) in view of Lockett. Claims 9, 16, 18 and 21 have been objected as being dependent upon rejected claims. Claim 12 was rejected under 35 U.S.C. 112, second paragraph. Claims 1, 5, 8, 12, 14 and 17 have been amended herein. Applicant respectfully submits that in light of the present amendments and the following remarks, Applicant has overcome each of Examiner's rejections and the application is in condition for allowance.

The specification and Claims 5, 8, 14 and 17 have been amended herein pursuant to Examiner's suggestions in his July 22, 1999

Official Action. Applicant respectfully submits that all informalities have been addressed.

Examiner rejected Claim 12 under 35 U.S.C. 112, second paragraph for lacking antecedent basis for the term "the inner stem." Applicant has amended Claim 12 herein to depend from Claim 10. Applicant respectfully submits that Claim 12 now has antecedent basis for "the inner stem" and said claim is in condition for allowance.

Examiner has cited U.S. Patent No. 2,989,250 to Simon and U.S. Patent No. 3,001,725 to Lockett as prior art against Applicant's invention. Applicant's invention relates to a hose nozzle having a symmetrical fluid flow pattern varying assembly connected to a tube ergonomically fitted to a person's hand to allow one-handed adjustment of the flow rate from a fluid pressure source as, for example, in an ordinary garden hose. Because of the symmetrical fluid flow pattern varying assembly, the present invention also allows the user to direct the fluid in a forward direction without having to maintain an outstretched arm and firm wrist position.

The Lockett reference relates to a hose nozzle having a ribbed fluid flow pattern varying assembly around an inner tube to allow easier gripping of the fluid flow pattern varying assembly. Lockett, however, fails to provide for a fitted grip on its tubular member and still requires two hands to adjust the device's fluid flow rate. The Simon reference relates to a hose nozzle comprising a fluid flow rate varying assembly set at an acute angle from the tubular body. While Simon allows for one-handed adjustment of the fluid flow rate, Simon requires a handle disposed along the side of the fluid flow rate varying assembly and hence requires the fluid to pass out of the nozzle at an angle from the shank. The Simon configuration, therefore, requires the user to maintain an outstretched arm and firm wrist to direct the fluid in a forward direction, a position which can be both painful and tiresome after time.

Examiner has rejected Claims 1-3, 8, 10-15, 17, and 19-20 under 35 U.S.C. 102(b) as anticipated by Lockett and Claims 1 and 6-8 under 35 U.S.C. 102(b) as anticipated by Simon.

Applicant has amended Claim 1 herein to overcome the Examiner's rejections. Applicant has amended Claim 1 herein to specifically recite a fluid flow patten varying assembly with a symmetrical cross section and a longitudinal axis perpendicular to said cross section, parallel to which the fluid is to flow. Applicant respectfully submits that the amendments herein do not constitute new matter as a symmetrical cross section was necessarily implied by the recitation of the "annular collar 42" of the specification. Applicant's amendment places Claim 1 in condition for allowance. Neither Simon nor Lockett discloses a hand grip on a tubular member coupled to a fluid flow rate varying assembly with a symmetrical cross section.

The Examiner asserts that Lockett discloses "a fluid flow pattern varying assembly 12 & 30 ... in sufficient proximity to the hollow body 11 to allow manual actuation by the index finger and thumb of the user's hand." However, the hollow body 11 of Lockett is referred to alternatively as an "inner tubular member" (col. 2, lines 16, 19, 50) and "inner member" (col 2., lines 31, 46). To anticipate a claim under §102(b), every element of the anticipated claim must appear in the disclosure. See MPEP 2131. Applicant

respectfully asserts that an "inner" member of any kind cannot be read to have a "hand grip shaped to fit a user's hand" as recited in Claim 1.

Amended Claim 1 also overcomes Examiner's §102(b) rejection over Simon. The fluid flow pattern varying assembly of Simon is specifically set along an "axis at an acute angle to the axis of said shank" (Simon claim). Simon discloses an irregularly shaped fluid flow pattern varying assembly with an irregular cross section (see Simon Fig. 1, element 42) which does not anticipate the symmetrical fluid flow pattern now required by Claim 1. Applicant respectfully submits that amended Claim 1 is allowable over both Simon and Lockett.

Applicant further respectfully submits that neither Simon nor Lockett renders Claim 1 obvious under 35 U.S.C. 103(a). Lockett is directed to providing a superior grip on the fluid flow pattern varying assembly without regard to the shape, fit or grip of the non-moving hollow body (see col. 2, lines 53-69). Applicant respectfully asserts, therefore, that Lockett contains neither motivation, teaching, nor suggestion to provide a grip shaped to

fit a user's hand on its "inner" member. An inner member, by implication, is not meant to be gripped. The hollow body of the present invention cannot simultaneously function as a grip and as an "inner member." The grip feature of Applicant's nozzle would render it unfit for the purpose of the nozzle in Lockett. Where a modification renders the prior art unfit for its intended purpose, a finding of obviousness is precluded. See In re Gordon, 221 U.S.P.Q. 1125 (Fed. Cir. 1984); MPEP 2143.01. Applicant respectfully submits that Claim 1 is non-obvious in view of Lockett. Applicant asserts that all dependent claims (namely Claims 2-13 and 15-22) are likewise non-obvious in view of Lockett as dependent from non-obvious claims. See In re Fine, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988); MPEP 2143.03

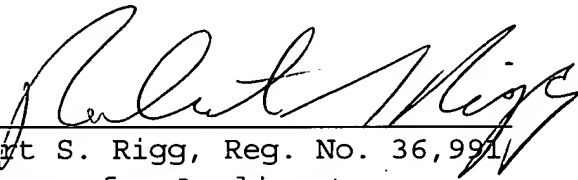
The amended claims are also non-obvious in view of Simon. Simon specifically recites in the claims and in the disclosure that the "discharge outlet" (fluid flow pattern varying assembly) has an "axis at an acute angle to the axis" of the shank (hollow body). Applicant respectfully asserts that amended Claim 1 requires fluid flow parallel to an axis that is perpendicular to the cross section of the fluid flow pattern varying assembly. This limitation is

wholly inconsistent with Simon's angled discharge outlet; indeed, Applicant's modification is contrary to the teaching of Simon and would be unfit for the Simon configuration. Finally, there is no suggestion or motivation to combine the inventions of Lockett and Simon, especially as the circular fluid flow pattern varying assembly of Lockett would be unfit for the Simon invention. Applicant respectfully asserts, therefore, that Claim 1 is not obvious in view of Simon and Applicant has completely overcome Examiner's rejection based upon Simon. Claims 2-8, 10-13 are also non-obvious as dependent from a non-obvious independent claim. See In re Fine, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988); MPEP 2143.03.

Applicant has amended Claim 14 herein to overcome Examiner's rejection based upon Lockett. Claim 14 has been amended herein to specifically disclose a tubular body having "an exterior hand grip". Applicant's addition of the term "exterior" specifically distinguishes the tubular body of Applicant's invention from the "inner tubular member" disclosed in Lockett. Applicant respectfully asserts, therefore, that neither Claim 14, nor Claims 15, 17, 19-20 and 22 which depend from Claim 14 are anticipated by Lockett.

Applicant respectfully asserts that the pending Claims 1-22 are in condition for allowance. Applicant respectfully requests reconsideration of all claims in light of the foregoing amendments and remarks. Please charge any fees associated with this amendment to Deposit Account No. 13-0019. The Examiner is encouraged to contact the undersigned with any concerns or questions.

Respectfully submitted,


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